

City of Alexandria, Virginia

MEMORANDUM

FROM: LUDWIG P. GAINES, MEMBER OF COUNCIL
ANDREW H. MACDONALD, MEMBER OF COUNCIL

TO: PHILLIP SUNDERLAND, CITY MANAGER

THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL:
WILLIAM D. EUILLE, MAYOR
REDELLA PEPPER, VICE MAYOR
ROB KRUPICKA, MEMBER OF COUNCIL
PAUL SMEDBERG, MEMBER OF COUNCIL
JOYCE WOODSON, MEMBER OF COUNCIL

DATE: OCTOBER 27, 2003

RE: STRENGTHENING ZONING COMPLIANCE OUTREACH AND
ENFORCEMENT

SUMMARY

This memorandum requests the City Manager and staff investigate opportunities to strengthen zoning compliance outreach to the business community and zoning enforcement. Several opportunities are identified below.

Compliance outreach and strengthened enforcement can lead to public benefits for the City of Alexandria and its residents in a number of important areas. These areas include increased zoning compliance, efficiencies in the enforcement process, protection of bargained for public benefits, and increased revenue from enforcement actions. It is understood that budget impacts, staffing, and compliance with legal requirements are also matters to be considered.

We recommend:

- (1) that the City Manager and Planning Staff explore enhancing compliance education and outreach to the business community,
- (2) that the City Manager and Planning Staff explore opportunities to strengthen enforcement, and

- (3) that the City Manager instruct Planning Staff to prepare and present to Council and Planning Commission annual zoning enforcement status reports.

I. ZONING COMPLIANCE OUTREACH TO BUSINESSES.

Ensuring compliance with the City's zoning ordinance is good public policy.

Prior to violation, proactive education efforts by the City can play a critical role in strengthening compliance. By bolstering efforts to educate businesses on zoning requirements and on the City's expectations for compliance, prospects for compliance are strengthened. One means to accomplish this is to create a zoning compliance education and outreach program (ZCP-zoning compliance program) targeted at City businesses. In this regard, soliciting input from the business community is an obvious and effective means to tailoring any useful compliance effort.

II. OPPORTUNITIES TO STRENGTHEN ZONING ENFORCEMENT.

Post-violation compliance must also be a priority. The City of Alexandria currently has an elaborate and effective enforcement system within the Department of Planning and Zoning, but opportunities exist to strengthen this system.

One opportunity is to institute a more readily transparent "deadlines and fines" structure (CD&FS) for business and property owners who fail to comply with appropriate zoning ordinances, and special use permits (SUPSs). Such a structure will provide a readily reviewable summary of the non-compliance penalties for various types of violations. Both the compliance deadlines, and the level of fines (specified amount and or range of fine) per specific type of violation will be indicated clearly.

Attached is an example of a successful effort to employ this enforcement tool.¹ (Attachment A)

A. *Enforcement Against Serious or Repeat Offenders*

Not all violators or violations are identical, nor are their impacts on adjacent businesses, neighborhoods or city resources. Zoning enforcement options should account for this difference. Serious and repeat offenders – offenders whose violations are clearly distinguished by their egregious or repeat nature – merit particular attention. These offenders have, at least recently, been a source of particular frustration for City staff and Planning Commission.² Not only have they consumed staff resources and wasted

¹ Also, see, http://www.city.bloomington.in.us/code/TITLE20/Chapter_20_09_ENFORCEMENT/20_09_05_00_ENFORCEMENT_PROCED.html

² The Pines of Florence restaurant at Foxchase, Dancing Peppers restaurant, and Afghan Restaurant are but three recent examples of repeat offenders.

taxpayer money, but these violators have also displayed a seemingly wanton disregard for zoning or special use requirements despite notice, repeated warnings, threats of fines and actual fines by the City. In dealing with this class of violators, we think it imperative to explore employing flexible penalty options that enable the assessment of a fine that is (1) commensurate with the violation, and/or (2) the repeat nature of the violation.

B. *Observations on Enforcing Special Use Permits*

Violations of special use permits (SUPs), by definition, present separate circumstances that at times merit separate or tailored approaches to enforcement. Here again, a violation's impact on the City, its infrastructure and resources, neighborhoods and businesses must be critical considerations when assessing a fine or penalty and should formally be reflected in our ability to protect against delayed or denied bargained for public benefits.³

Permit holders must be instructed that serious and/or repeat violations may result in increased fines and/or the revocation or withholding of other approvals, certificates and/or permits relevant to the use or development of the site on which the violation occurred.

Attached is an example of one effort to codify this remedy.⁴ (Attachment B)

III. ESTABLISH A REPORTING SYSTEM.

Lastly, we think it prudent that Council and Planning Commission be kept abreast of enforcement actions in the form of annual status reports. Among others, these reports can provide decision makers with valuable information regarding City enforcement efforts, as well as the City's ability to marshal resources to meet specific or emerging enforcement challenges.

Attached is a copy of a successful attempt at enforcement reporting.⁵ (Attachment C)

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AHM

³ For example, enforceable Traffic Management Plans (TMPs) benefit the entire community. When they are not implemented, it means there will be more air pollution and more traffic.

⁴ Also, see, http://www.city.bloomington.in.us/code/TITLE20/Chapter_20_09_ENFORCEMENT/20_09_06_00_AUTHORIZED_REMEDIE.html

⁵ This report includes, (a) types of enforcement actions handled, (b) resolution of enforcement actions (i.e., corrective action taken by property owner, amount of fine(s) assessed, revocation of business permits), (c) budgetary impacts, including administrative costs and revenue forwarded to the General Fund, and (d) enforcement items for future consideration.

Cc:

Chair and Members of the Planning Commission

STAFF:

Mark Jinks, Assistant City Manager

Eileen Fogerty, Dir. of Planning & Zoning

Barbara Ross, Deputy Dir. of Planning & Zoning